
(2006) 09 AHC CK 0070
In the Allahabad High Court

Zila Basic Shiksha Adhikari and Others	APPELLANT
Vs	
State of U.P. and Others	RESPONDENT

Date of Decision : 06-09-2006

Acts Referred:

Citation : (2007) 1 AWC 320

Hon'ble Judges : Rakesh Tiwari, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Rakesh Tiwari, J.—Heard counsel for the petitioners.

2. Briefly stated, the facts of the case are that the institution-Basic Primary Pathshala Alayee (Balak) is tenant on a monthly rent of Rs. 75 of a building bearing old No. 1252 and new No. 1371, Mohalla Alyaes, Mauranipur, Jhansi, which is owned by one Smt. Bhawani Bai w/o Sri Govind Das Bichpuria.

3. The petitioners claim that Smt. Bhawani Bai proposed that if name of institution is changed in the name of her late husband as "Sri Govind Das Bichpuria Primary Pathshala Alayee (Balak), Mauranipur, Jhansi" she would donate the building by a registered Will deed in favour of the institution.

4. The petitioners claim that the aforesaid proposal was accepted by Basic Shiksha Adhikari, Jhansi on 2.12.1993 and permission for change of the name of institution was accorded with the condition that registration fee for transfer of the building in the name of the petitioner would have to be borne by Smt. Bhawani Bai. Accordingly, the name of the institution was changed as requested by Smt. Bhawani Bai and all correspondences started in the changed name of the institution.

5. The petitioners allege that Smt. Bhawani Bai was issueless and died on 28.11.1995 leaving no heir behind her. They claim that on her death, they became owners of the building, in dispute.

6. A notice dated 1.12.1998 was served upon the petitioners by respondent No. 2 claiming himself to be owner of the building, in dispute on the basis of a Will deed said to have been executed by late Smt. Bhawani Bai on 22.12.1995. He also instituted Small Cause Case No. 23 of 2000, Purshottam Das Potedar v. State of U.P. claiming himself owner of the disputed building, which was decreed in his favour vide Judgment and decree dated 10.5.2004 passed by Judge, Small Causes Court, Jhansi.

7. Aggrieved by the aforesaid judgment and decree, the petitioners preferred Small Causes Revision No. 88 of 2004 before the District Judge/Special Judge (D.A.A.), Jhansi, which has been dismissed by the impugned judgment and order dated 8.5.2006 and hence this writ petition.

8. From the perusal of record and impugned judgments and decree, can at the interest be said that only an intention was expressed by late Smt. Bhawani Bai for giving the building to the petitioners but that intention was not forestalled in to action by transfer of the property by means of registered deed.

9. Counsel for the petitioners could not show any instrument having been executed by late Smt. Bhawani Bai to the effect that she had in fact donated the building to the petitioners. The position from records is that late Smt. Bhawani Bai did not execute any registered deed in favour of the institution.

10. Mere intention does not give accrual to a legal right unless such an intention is translated or acted upon by the parties. The offer of Smt. Bhawani Bai could also not be termed as a contract as it was counter offered by the then Basic Siksha Adhikari on behalf of the Department that she had to pay the expenses herself for transfer of the property for registration in the name of the Department. This counter offer was not acted upon, hence there could also not be a case of binding contract between the Basic Siksha Department and Smt. Bhawani Bai.

11. Moreover, the courts below have recorded concurrent findings of facts against the petitioners and counsel for the petitioners could not establish any illegality or perversity warranting interference in the extraordinary writ jurisdiction. The decree is in favour of the respondent and against the petitioners who have no locus standi or legal right in the matter to claim the property.

12. For the reasons stated above, the writ petition is dismissed. No order as to costs.